IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 13973 of 2005

Between:

M/s. M.P.R. & Co., Biccavole, rep. by its Managing Partner-Muppidi Prasada Reddy, S/o. Prasada Reddy, S/o. Pulla Reddy,

..... PETITIONER

AND

1 The Additional Commissioner of Commercial Taxes legal, O/o. The Commissioner of
Commercial Taxes, Commercial Taxes and Excise Buildings., Nampally, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.
3 The Commercial Tax Officer, Ramachandrapuram, E.G.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the proceedings of the Addl. Commissioner of Commercial Taxes (Legal), Dt. 24.03.2005 in CCT's Ref. No.LV(3)/3485/04 and CCT's Ref.No.LV(3)/3539/2004 under both CST & APGST Acts for the Assessment year 1999-2000 as illegal arbitrary and contrary to the judgment of the Hon'ble Apex Court in 130 STC page 107 in so far as it was not referred to in the later judgment reported in 135 STC page 149 in relation to levy of tax on export purchase of paddy under Section 5 (3) read with section 15(c)(a) under CST Act, 1956 as also the second sales of gunnies exempt from tax as held by the Sales Tax Appellate Tribunal in 39 APSTJ page 26 and consequently direct the third respondent not to take any coercive action for collection of the balance of the disputed tax in terms of

the rejection order of the first respondent pending disposal of the appeal on the file of the Sales Tax Appellate Tribunal and grant such other relief or reliefs as are deemed to be fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.V.J.K.KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

ORAL ORDER: (per the Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties. With their consent, the writ petition is disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

The writ petition is disposed of accordingly. No costs.

BILAL NAZKI, ACJ

DATE: 30th June, 2005

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K.C. BHANU,J

Pnb

To

1 The Additional Commissioner of Commercial Taxes legal, O/o. The Commissioner of Commercial Taxes, Commercial Taxes and Excise Buildings., Nampally, Hyderabad.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.
3 The Commercial Tax Officer, Ramachandrapuram, E.G.District.

4 Two C.Cs. to the Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad. (OUT)

5 Two C.D. copies